

# **EXHIBIT A**



1 APPEARANCES: (cont'g)

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1 rule was, and they divided their expert reports up. We  
2 objected --

3 THE COURT: I know that. I got that. What we have  
4 here is what does that word in the order mean, I suppose, and  
5 how the parties have dealt with the issues surrounding it and  
6 what's the consequence to them and to you of granting the  
7 relief or denying it respectively. That's what I'm trying to  
8 sort out.

9 MS. STOLL-DeBELL: So, I think, you know, he's  
10 already said he may not call Mr. Niemeyer. So I assume if you  
11 order them to choose one expert for infringement and one for  
12 validity, I assume they'll choose Dr. Weaver for infringement,  
13 and they'll put him on the stand and he'll give the opinion he  
14 disclosed in his report. As for validity, they are going --

15 THE COURT: Did Hilliard give validity opinions that  
16 are at issue in the case?

17 MS. STOLL-DeBELL: Pardon me?

18 THE COURT: Did he give validity opinions on the  
19 issues in the case?

20 MS. STOLL-DeBELL: Mr. Hilliard?

21 THE COURT: Yes.

22 MS. STOLL-DeBELL: Yeah, he did on Sections 102 and  
23 103.

24 THE COURT: Would you look at 21, his slide 21. He  
25 says, if Weaver can't testify on invalidity, he doesn't have

1     anybody on 101 -- 112, description, enablement, and  
2     indefiniteness, because Hilliard didn't opine on those issues.  
3     Is that a correct assertion, in your view?

4             MS. STOLL-DeBELL:   Yes, I think it is.

5             THE COURT:   So in essence what you are asking me to  
6     do is to grant judgment for you because they had their foot off  
7     base, i.e., they're going to be at the point where they don't  
8     have any testimony, and a Rule 50 motion would have to be  
9     granted at the end of the case, and we'd be going through all  
10    this for nothing insofar as they're concerned, and so I think I  
11    understand.   Is there anything else that you've got to argue?

12            MS. STOLL-DeBELL:   No, I don't think so.

13            THE COURT:   You've made quite a good argument, and  
14    it's a forceful one and a right one, but in many respects, I  
15    think the Court has got to be mindful of the fact that perhaps  
16    it played a role in this situation as well, and when that  
17    happens, the Court has to be somewhat more understanding than  
18    when the parties are on their own, do something that is  
19    prohibited by an order.   So that's kind of what's on my mind,  
20    and if you want to address any of that, you can.

21            MS. STOLL-DeBELL:   I just think Lawson didn't do  
22    anything wrong here for this particular issue.

23            THE COURT:   You didn't, and I don't think he's argued  
24    for one minute that you did anything wrong with respect to what  
25    you designated and how you interpreted things.   He did say you